

AMENDMENT TO H.R. 1401, AS REPORTED
OFFERED BY MR. BUYER OF INDIANA
OR MR. ABERCROMBIE OF HAWAII

At the end of subtitle E of title VI (page 207, after
line 5), insert the following new section:

1 **SEC. 655. DISABILITY RETIREMENT OR SEPARATION FOR**
2 **CERTAIN MEMBERS WITH PRE-EXISTING**
3 **CONDITIONS.**

4 (a) DISABILITY RETIREMENT.—(1) Chapter 61 of
5 title 10, United States Code, is amended by inserting after
6 section 1207 the following new section:

7 **“§ 1207a. Members with over eight years of active**
8 **service: eligibility for disability retire-**
9 **ment for pre-existing conditions**

10 “(a) In the case of a member described in subsection
11 (b) who would be covered by section 1201, 1202, or 1203
12 of this title but for the fact that the member’s disability
13 is determined to have been incurred before the member
14 becoming entitled to basic pay in the member’s current
15 period of active duty, the disability shall be deemed to
16 have been incurred while the member was entitled to basic
17 pay and shall be so considered for purposes of determining
18 whether it was incurred in the line of duty.

1 “(b) A member described in subsection (a) is a mem-
2 ber with at least eight years of active service.”.

3 (2) The table of sections at the beginning of such
4 chapter is amended by inserting after the item relating
5 to section 1207 the following new item:

“1207a. Members with over eight years of active service: eligibility for disability
retirement for pre-existing conditions.”.

6 (b) NONREGULAR SERVICE RETIREMENT.—(1)
7 Chapter 1223 of such title is amended by inserting after
8 section 12731a the following new section:

9 **“§ 12731b. Special rule for members with physical**
10 **disabilities not incurred in line of duty**

11 “In the case of a member of the Selected Reserve of
12 a reserve component who no longer meets the qualifica-
13 tions for membership in the Selected Reserve solely be-
14 cause the member is unfit because of physical disability,
15 the Secretary concerned may, for purposes of section
16 12731 of this title, determine to treat the member as hav-
17 ing met the service requirements of subsection (a)(2) of
18 that section and provide the member with the notification
19 required by subsection (d) of that section if the member
20 has completed at least 15, and less than 20, years of serv-
21 ice computed under section 12732 of this title.

22 “(b) Notification under subsection (a) may not be
23 made if—

1 “(1) the disability was the result of the mem-
2 ber’s intentional misconduct, willful neglect, or will-
3 ful failure to comply with standards and qualifica-
4 tions for retention established by the Secretary con-
5 cerned; or

6 “(2) the disability was incurred during a period
7 of unauthorized absence.”

8 (2) The table of sections at the beginning of such
9 chapter is amended by inserting after the item relating
10 to section 12731a the following new item:

 “12731b. Special rule for members with physical disabilities not incurred in line
 of duty.”.

11 (c) SEPARATION.—Section 1206(5) of such title is
12 amended by inserting “, in the case of a disability incurred
13 before the date of the enactment of the National Defense
14 Authorization Act for Fiscal Year 2000,” after “deter-
15 mination, and”.